

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
McKENNA DANILO BERNARDO,  
  
Defendant.

CASE NO. CR20-0114-JCC  
  
ORDER

This matter comes before the Court on Defendant McKenna Bernardo's unopposed motion to continue the trial and pretrial deadlines (Dkt. No. 23). Having thoroughly considered the motion and the relevant record and finding good cause, the Court GRANTS the motion.

The Government has charged Mr. Bernardo with possession of child pornography. (*See generally* Dkt. Nos. 1, 13.) Mr. Bernardo made his initial appearance on June 1, 2020, (Dkt. No. 6), was indicted on August 6, 2020, (Dkt. No. 13), and was arraigned on August 27, 2020, (Dkt. No. 22). Trial is currently scheduled for October 26, 2020 and the pretrial motions deadline is September 17, 2020. (*See* Dkt. No. 22.) Mr. Bernardo now moves to continue the trial until April 26, 2021 and the pretrial motions deadline until March 22, 2021. (*See* Dkt. No. 23 at 1.)

Mr. Bernardo argues that a continuance is necessary for two reasons. First, Mr. Bernardo needs additional time to complete his investigation and to determine whether he will proceed to trial. (*See* Dkt. No. 23 at 2.) Second, "a long continuance is warranted" because of the COVID-

1 19 pandemic's impact on the Court. (*Id.*) Accordingly, Mr. Bernardo requests that the Court  
2 continue the trial until April 26, 2021 and the pretrial motions deadlines until March 22, 2021,  
3 and order that the time between the date of the Court's order and the new trial date is excluded  
4 under the Speedy Trial Act, 18 U.S.C. § 3161. The Government does not oppose Mr. Bernardo's  
5 motion. (*See* Dkt. No. 23 at 1.)

6 The Court must analyze Mr. Bernardo's motion in the context in which it arises. Over the  
7 past six months, the COVID-19 pandemic has significantly impacted the Court's operations. (*See*  
8 General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, each of which the Court incorporates  
9 by reference.) Specifically, the pandemic has rendered the Court unable to obtain an adequate  
10 spectrum of jurors to represent a fair cross section of the community, and public health guidance  
11 has impacted the ability of jurors, witnesses, counsel, and Court staff to be present in the  
12 courtroom. (*See generally id.*)

13 Having thoroughly considered the briefing and the relevant record, the Court FINDS that  
14 the ends of justice served by granting a continuance outweigh the best interests of Mr. Bernardo  
15 and the public to a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). The reasons for this finding are:

- 16 1. The COVID-19 pandemic has rendered the Court unable to obtain an adequate  
17 spectrum of jurors to represent a fair cross section of the community, which would  
18 likely make proceeding on the current case schedule impossible or would result in a  
19 miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
- 20 2. Public health guidance has impacted the ability of jurors, witnesses, counsel, and  
21 Court staff to be present in the courtroom. Therefore, proceeding with the current trial  
22 date would likely be impossible. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
- 23 3. Mr. Bernardo needs additional time to complete his investigation and determine  
24 whether to proceed to trial. Therefore, the failure to grant a continuance would deny  
25 Mr. Bernardo's counsel reasonable time necessary for effective preparation. *See* 18  
26 U.S.C. § 3161(h)(7)(B)(iv).

1 Accordingly, the Court ORDERS:

- 2 1. The October 26, 2020 trial is CONTINUED until April 26, 2021.
- 3 2. The September 17, 2020 pretrial motions deadline is CONTINUED until March 22,
- 4 2021.
- 5 3. The period from the date of this order until April 26, 2021 is an excludable time
- 6 period under 18 U.S.C. § 3161(h)(7)(A).
- 7

8 DATED this 23rd day of September 2020.

9

10 

11  
12 John C. Coughenour  
13 UNITED STATES DISTRICT JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26